

Part III – Administrative, Procedural, and Miscellaneous

Sections – 6651, 6662-6664, 6702

Rev. Rul. 2005-20

PURPOSE

The Service is aware that some taxpayers are attempting to reduce or eliminate their federal tax liability by taking the position that they are not required to pay taxes if those taxes might be used to support government programs or policies with which they disagree. Common examples include moral, ethical, or religious opposition to government spending for weapons programs, military operations, or medical research. The Service is also aware that promoters, including return preparers, are advising or recommending that taxpayers take frivolous positions based on these arguments. Some promoters market a package, kit, or other materials that claim to show taxpayers how they can avoid paying taxes based on these and other meritless arguments.

This revenue ruling emphasizes to taxpayers and to promoters and return preparers that liability for federal taxes does not depend on whether the taxpayer agrees with the government programs or policies that are funded with tax receipts. Any argument that taxpayers may refuse to report income or claim deductions because they oppose particular government programs or policies is frivolous and has no merit.

The Service is committed to identifying taxpayers who attempt to avoid their tax obligations by taking frivolous positions, including frivolous positions based on

opposition to government programs or policies. The Service will take vigorous enforcement action against these taxpayers and against promoters and return preparers who assist taxpayers in taking these frivolous positions. Frivolous returns and other similar documents submitted to the Service are processed through its Frivolous Return Program. As part of this program, the Service confirms whether taxpayers who take frivolous positions have filed all of their required tax returns, computes the correct amount of tax and interest due, and determines whether civil and criminal penalties should apply. The Service also determines whether civil or criminal penalties should apply to return preparers, promoters, and others who assist taxpayers in taking frivolous positions, and recommends whether a court injunction should be sought to halt these activities. Other information about frivolous tax positions is available on the Service website at www.irs.gov.

ISSUE

Whether a taxpayer's disagreement with government programs or policies on moral, ethical, religious or other grounds allows the taxpayer to refuse to file federal tax returns or to refuse to pay part or all of the taxpayer's federal tax liability?

LAW AND ANALYSIS

Section 1 of the Internal Revenue Code imposes a tax on all taxable income. There is no authority under the Internal Revenue Code or any other applicable law that allows taxpayers to refuse to file tax returns because they do not agree with government programs or policies. Further, it is well settled that deductions and credits are a matter

of legislative grace and are not allowed unless specifically provided for in the Internal Revenue Code. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84 (1992). There is no provision in the Internal Revenue Code that permits taxpayers to file returns claiming deductions or credits that reduce their taxable income by the percentage they estimate the government spends on programs or policies with which they disagree.

These frivolous positions are variations of arguments taxpayers have made about religion and taxation that have been repeatedly rejected by the courts. In United States v. Lee, 455 U.S. 252 (1982), a member of a religious denomination claimed that the payment of social security taxes violated his First Amendment right to free exercise of religion. The United States Supreme Court rejected this argument, stating that “the tax system could not function if denominations were allowed to challenge the tax system because tax payments were spent in a manner that violates their religious belief.” Id. at 260. The Court held that religious or moral beliefs that conflict with the payment of tax provide no basis for resisting the tax. Id.

Courts repeatedly have rejected these and similar arguments that a taxpayer’s religious or moral beliefs permit the avoidance of federal taxes, and have imposed penalties against taxpayers who make these arguments. See Schehl v. Commissioner, 855 F.2d 364, 367 (6th Cir. 1988) (“Alleged vocal opposition to taxes for a particular reason, and refusal to pay taxes, even if all assertions were taken as true . . . are simply not a basis to challenge an assessment of taxes.”); Nelson v. United States, 796 F.2d 164 (6th Cir. 1986) (upholding the applicability and constitutionality of a frivolous return penalty imposed against a taxpayer who claimed a deduction based on religious

objection to war expenditures); Randall v. Commissioner, 733 F.2d 1565, 1567 (11th Cir. 1984) (“[A]rguments involving objections to the Government's military expenditures as a basis for non-payment of taxes have been raised by taxpayers many times, and in each instance the courts have rejected them.”).

CIVIL AND CRIMINAL PENALTIES

The Service will disallow deductions or other claimed tax benefits, including the exclusion of income, based on frivolous arguments regarding opposition to government programs or expenditures. In addition to liability for tax due plus statutory interest, individuals who claim tax benefits on their returns based on these and other frivolous arguments may face substantial civil and criminal penalties. Potentially applicable civil penalties include: (1) the section 6662 accuracy-related penalty, which is equal to 20 percent of the amount of taxes the taxpayer should have paid; (2) the section 6663 penalty for civil fraud, which is equal to 75 percent of the amount of taxes the taxpayer should have paid; (3) a \$500 penalty under section 6702 for filing a frivolous return; and (4) a penalty of up to \$25,000 under section 6673 if the taxpayer makes frivolous arguments in the United States Tax Court.

Taxpayers relying on these frivolous positions also may face criminal prosecution for: (1) attempting to evade or defeat tax under section 7201, for which the penalty is a significant fine and imprisonment for up to 5 years; or (2) making false statements on a return under section 7206, for which the penalty is a significant fine and imprisonment for up to 3 years.

Persons who promote these frivolous positions and those who assist taxpayers in claiming tax benefits based on these positions may be enjoined by a court pursuant to sections 7407 and 7408 and also may face potential civil and criminal penalties. Potential penalties include: (1) a \$250 penalty under section 6694 for each return prepared by an income tax return preparer who knew or should have known that the taxpayer's argument was frivolous (or \$1,000 for each return if the return preparer's actions were willful, intentional, or reckless); (2) a penalty under section 6700 for promoting abusive tax shelters; (3) a \$1,000 penalty under section 6701 for aiding and abetting the understatement of tax; and (4) criminal prosecution under section 7206, for which the penalty is a significant fine and imprisonment for up to 3 years, for assisting or advising about the preparation of a false return or other document under the internal revenue laws.

HOLDING

Taxpayers may not refuse to file tax returns and may not claim deductions or credits on their tax returns based on their opposition to government programs or policies. Any claim that individuals may reduce their federal tax liability based on objections to the use of the taxes to support government programs or policies is frivolous and has no merit.

DRAFTING INFORMATION

The principal author of this revenue ruling is the Office of the Associate Chief Counsel (Procedure & Administration) Administrative Provisions and Judicial Practice

Division. For further information regarding this revenue ruling, contact that office on (202) 622-7950 (not a toll-free call).